DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 165

BOARD OF OCCUPATIONAL THERAPY PRACTICE

Sub-Chapter 1

Organizational Rule

Sub-Chapter 2

Procedural Rules

Sub-Chapter 3

Definitions

Sub-Chapter 4

General Provisions

Sub-Chapter 5

Licensing And Scope Of Practice

Sub-Chapter 6

Licensing And Board Specific Rules

Sub-Chapters 7 through 20 reserved

Sub-Chapter 21

Continuing Education

Sub-Chapter 22 reserved

Sub-Chapter 23

Unprofessional Conduct

Sub-Chapter 1

Organizational Rule

24.165.101 ORGANIZATIONAL RULE (1) The board of occupational therapy practice adopts and incorporates the organization rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-24-201, MCA; IMP, 2-4-201, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; TRANS, from Commerce, 2004 MAR p. 2280.)

Sub-Chapter 2

Procedural Rules

24.165.201 PROCEDURAL RULES (1) The board of occupational therapy practice adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-24-201, MCA; IMP, 2-4-201, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; TRANS, from Commerce, 2004 MAR p. 2280.)

24.165.202 PUBLIC PARTICIPATION (1) The board of occupational therapy practice adopts and incorporates by this reference the public participation rules of the department of commerce as listed in chapter 2 of Title 8. (History: 37-24-201, MCA; IMP, 2-3-103, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; TRANS, from Commerce, 2004 MAR p. 2280.)

Sub-Chapter 3

Definitions

24.165.301 DEFINITIONS (IS HEREBY REPEALED) (History: 37-1-131, 37-24-201, 37-24-202, MCA; IMP, 37-24-103, 37-24-104, 37-24-105, 37-24-106, 37-24-202, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; AMD, 1989 MAR p. 1191, Eff. 8/18/89; AMD, 1994 MAR p. 663, Eff. 4/1/94; AMD, 1996 MAR p. 2379, Eff. 9/6/96; TRANS, from Commerce, 2004 MAR p. 2280; REP, 2005 MAR p. 447, Eff. 4/1/05.)

Sub-Chapter 4

General Provisions

24.165.401 FEES (1) Fees adopted by the board under 37-24-310, MCA, are as follows:

(a)	Applications for licensure	$ 80
(b)	Initial license issuance	80
(c)	License renewal	80
(d)	Late license renewal	40
(e)	Temporary practice permit	60
(f)	Inactive fee renewal	30
(g)	Duplicate license fee	10
(h)	License verification fee	30

(2) All fees are non-refundable. (History: 37-1-131, 37-1-134, 37-24-201, 37-24-202, MCA; IMP, 37-24-310, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; AMD, 1988 MAR p. 972, Eff. 5/27/88; AMD, 1989 MAR p. 1191, Eff. 8/18/89; AMD, 1996 MAR p. 2379, Eff. 9/6/96; AMD, 2000 MAR p. 1036, Eff. 4/28/00; TRANS, from Commerce, 2004 MAR p. 2280.)

Rules 24.165.402 and 24.165.403 reserved

24.165.404 APPLICATIONS FOR LICENSURE (1) Applications for an original license or temporary practice permit must be made on forms provided by the board and completed and signed by the applicant, with the signature acknowledged before a notary public.

(2) The application must be typed or legibly written in ink, accompanied by the appropriate fee(s), and contain sufficient evidence that the applicant possesses the qualifications set forth in Title 37, chapter 24, MCA, and rules promulgated thereunder.

(3) The board shall require the applicant to submit original or certified documents in support of the application. The board shall permit such documents to be withdrawn upon substitution of a true copy.

(4) The board shall require the applicant to submit a photocopy of the applicant's driver license or other form of signed, photographic identification.

(5) Fully-completed applications will be reviewed for compliance with board laws and rules. The board may request

such additional information or clarification of information provided in the application as it deems reasonably necessary. Incomplete applications shall be returned to the applicant with a statement regarding incomplete portions.

(6) The applicant shall correct any deficiencies and re-submit the application. Failure to re-submit the application within 60 days shall be treated as a voluntary withdrawal of the application. After voluntary withdrawal, an applicant will be required to submit an entirely new application to begin the process again.

(7) The board shall notify the applicant, in writing, of the results of the evaluation of a completed application.

(8) All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, 42 USC sections 12101, et seq., must be made on forms provided by the board and submitted in advance of the requested accommodation. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-302, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; AMD, 1996 MAR p. 2379, Eff. 9/6/96; TRANS, from Commerce, 2004 MAR p. 2280.)

Rules 24.165.405 and 24.165.406 reserved

24.165.407 EXAMINATIONS (1) For the purposes of 37-24-304(2), MCA, the board adopts as its examination the examinations in existence on May 30, 1986, offered through the national board of certification in occupational therapy (NBCOT).

(2) Arrangements and fees for examinations are the responsibility of the applicant and shall be made with the NBCOT.

(3) It shall be the responsibility of the applicant to assure that his or her examination score is forwarded by the NBCOT to the board.

(4) Applicants who fail an examination may be re-examined upon payment of another examination fee to the NBCOT.

(5) Examinations will be given two times a year as set by the NBCOT. (History: 37-1-131, 37-24-201, 37-24-202, MCA; IMP, 37-24-304, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; AMD, 1989 MAR p. 1191, Eff. 8/18/89; TRANS, from Commerce, 2004 MAR p. 2280.)

Rules 24.165.408 and 24.165.409 reserved

24.165.410 PASS-FAIL CRITERIA (1) The board will utilize the pass/fail criteria applied by the national board of certification in occupational therapy (NBCOT). (History: 37-1-131, 37-24-201, 37-24-202, MCA; IMP, 37-24-304, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; AMD, 1989 MAR p. 1191, Eff. 8/18/89; TRANS, from Commerce, 2004 MAR p. 2280.)

24.165.411 BOARD FILING PRACTICES (1) All submissions to, or requests of the board, must be made in writing and addressed to the board office before they will be acted on by the board. Routine matters will be handled by the administrative assistant. (History: 37-24-201, 37-24-202, MCA;

IMP, 37-24-202, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; AMD, 1996 MAR p. 2379, Eff. 9/6/96; TRANS, from Commerce, 2004 MAR p. 2280.)

Sub-Chapter 5

Licensing And Scope Of Practice

24.165.501 SUPERVISION - GENERAL STATEMENT (1) (Adapted from the American Occupational Therapy Association Position Statement on Supervision, 1993). The supervisor shall determine the degree of supervision to administer to the supervisee based on the supervisor's estimation of the supervisee's clinical experience, responsibilities, and competence at a minimum.

(2) A fully-licensed occupational therapist shall not require supervision.

(3) A certified occupational therapist assistant, in accordance with 37-24-103(2), MCA, shall work under the general supervision of a licensed occupational therapist.

(4) Temporary practice permit holders under 37-1-305(2), MCA, shall work under the routine supervision of a certified occupational therapist assistant or a licensed occupational therapist.

(5) Entry-level practitioners shall be defined as practitioners having less than six month's experience in the specific practice setting and may on a case-by-case basis, require supervision as determined by the board.

(6) Occupational therapy aides under 37-24-103(6), MCA, shall work under the direct supervision of a licensed occupational therapist or a certified occupational therapist assistant. Occupational therapy aides shall have no supervisory capacity. (History: 37-1-319, 37-24-202, MCA; IMP, 37-1-305, 37-24-103, MCA; NEW, 1996 MAR p. 2379, Eff. 9/6/96; TRANS, from Commerce, 2004 MAR p. 2280.)

24.165.502 SUPERVISION - METHODS (1) Direct supervision shall require the supervisor to be physically present in the direct treatment area of the client-related activity being performed by the supervisee. Direct supervision requires face-to-face communication, direction, observation and evaluation on a daily basis.

(2) Routine supervision requires direct contact at least daily at the site of work, with interim supervision occurring by other methods, such as telephonic, electronic or written communication.

(3) General supervision requires face-to-face communication, direction, observation and evaluation by the supervisor of the supervisee's delivery of client services at least monthly at the site of client-related activity, with interim supervision occurring by other methods, such as telephonic, electronic or written communication. (History: 37-1-319, 37-24-202, MCA; IMP, 37-1-305, 37-24-103, MCA; NEW, 1996 MAR p. 2379, Eff. 9/6/96; TRANS, from Commerce, 2004 MAR p. 2280.)

24.165.503 APPROVAL TO USE MODALITIES (IS HEREBY REPEALED) (History: 37-24-202, MCA; IMP, 37-24-105, 37-24-106, MCA; NEW, 1994 MAR p. 663, Eff. 4/1/94; TRANS, from Commerce, 2004 MAR p. 2280; REP, 2005 MAR p. 447, Eff. 4/1/05.)

Rules 24.165.504 and 24.165.505 reserved

24.165.506 QUALIFYING EDUCATION PROGRAMS (1) In accordance with 37-24-105 and 37-24-106, MCA, educational programs that would satisfy education requirements for use of superficial physical agent modalities or sound and electrical physical agent modalities must be approved or recognized either by the American occupational therapy association or the American society of hand therapists or be approved by the board. (History: 37-24-202, MCA; IMP, 37-24-105, 37-24-106, MCA; NEW, 1994 MAR p. 663, Eff. 4/1/94; AMD, 1996 MAR p. 2379, Eff. 9/6/96; TRANS, from Commerce, 2004 MAR p. 2280.)

24.165.507 STANDARDS OF PRACTICE (1) The board adopts by reference the American occupational therapy association's standards of practice, dated March 1992. A copy of these standards is available from the office of the board of occupational therapy practice. (History: 37-24-202, MCA; IMP, 37-24-105, 37-24-106, MCA; NEW, 1994 MAR p. 663, Eff. 4/1/94; TRANS, from Commerce, 2004 MAR p. 2280.)

24.165.508 PERMISSION TO USE ELECTRICAL OR SOUND PHYSICAL AGENTS (IS HEREBY REPEALED) (History: 37-24-202, MCA; IMP, 37-24-106, MCA; NEW, 1994 MAR p. 663, Eff. 4/1/94; TRANS, from Commerce, 2004 MAR p. 2280; REP, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.509 APPROVED INSTRUCTION (1) The term "instruction" refers to didactic study that is presented in any of the following forums:

(a) continuing education unit course work;

(b) in-service training by licensed health care professionals;

(c) professional conference;

(d) professional workshop; or

(e) self-study course work pursuant to ARM 24.165.2101(10).

(2) Any of the following sponsors or providers of instruction are approved by the board to provide instruction to licensees who wish to provide sound and electrical physical agent modalities or superficial physical agent modalities:

(a) providers approved or recognized by the American occupational therapy association;

(b) providers approved by the national board for certification in occupational therapy;

(c) providers approved or recognized by the American society of hand therapists; or

(d) graduate level education course work offered by an accredited college or university, provided that:

(i) the course work is taken after the licensee has obtained an undergraduate degree in occupational therapy; and

(ii) the course work provides skills and knowledge beyond mere entry level skills or knowledge of the topic.

(3) The board will approve instruction provided by licensed health care professionals whose competency in teaching the use of sound and electrical physical agent modalities and superficial physical agent modalities is demonstrated to the satisfaction of the board. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-105, 37-24-106, 37-24-107, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.510 APPROVED TRAINING (1) The term "training" refers to proctored learning sessions provided via example and observation by a qualified person.

(2) A qualified person, within the meaning of this rule, is any person who is:

(a) a licensed occupational therapist:

(i) approved by the board to administer superficial physical agent modalities and sound and electrical physical agent modalities for iontophoresis and phonophoresis; and

(ii) who has more than one year of clinical experience in either the use of sound and electrical physical agent modalities or superficial physical agent modalities; or

(b) a licensed health care professional who has more than one year of clinical experience in the use of sound and electrical physical agent modalities or superficial physical agent modalities. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-105, 37-24-106, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.511 DOCUMENTATION OF INSTRUCTION AND TRAINING

(1) The term "documentation" means written evidence that the person has successfully completed a formal instruction program. Documentation consists of all the following:

(a) a certificate of course attendance or completion, signed by a program official;

(b) the name or title of the course attended;

(c) the number of hours of course instruction;

(d) the date or dates the course was attended; and

(e) a copy of the course syllabus. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-105, 37-24-106, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

Rule 24.165.512 reserved

24.165.513 APPROVAL TO USE SOUND AND ELECTRICAL PHYSICAL AGENT MODALITIES (1) A licensee desiring to use sound or electrical physical agent modalities must successfully complete and provide to the board documentation of:

(a) 20 hours of instruction or training in sound physical agent modality devices;

(b) 20 hours of instruction or training in electrical physical agent modality devices; and

(c) either:

(i) certification by the hand certification commission, inc.; or

(ii) the successful completion of 10 proctored treatments consisting of:

(A) five proctored treatments under the direct supervision of a licensed medical practitioner in sound physical agent modality devices; and

(B) five proctored treatments under the direct supervision of a licensed medical practitioner in electrical physical agent modality devices.

(2) The 40 hours of instruction or training required by (1) must be approved by the board, and must consist of the following subjects:

(a) the principles of physics related to specific properties of light, water, temperature, sound, or electricity, as indicated by selected modality;

(b) the physiological, neurophysiological, and electrophysiological changes, as indicated, which occur as a result of the application of the selected modality;

(c) the response of normal and abnormal tissue to the application of the modality;

(d) the indications and contraindications related to the selection and application of the modality;

(e) the guidelines for treatment or administration of the modality within the philosophical framework of occupational therapy;

(f) the guidelines for educating the patient including instructing the patient to the process and possible outcomes of treatment, including risks and benefits;

(g) the safety rules and precautions related to the selected modality;

(h) the methods for documenting the effectiveness of immediate and long-term effects of treatment; and

(i) the characteristics of the equipment, including safe operation, adjustment, and care of equipment. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-106, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.514 QUALIFICATIONS TO APPLY TOPICAL MEDICATIONS - CLINICIAN DEFINED (1) Prior to the administration or use of topical medications, an occupational therapist desiring to administer or use topical medications on a patient shall, in addition to the instruction or training provided for in 37-24-106, MCA and ARM 24.165.513, successfully complete five hours of instruction or training approved by the board in:

(a) principles of topical drug interaction;

(b) adverse reactions and factors modifying response;

(c) actions of topical drugs by therapeutic classes; and

(d) techniques by which topical drugs are administered.

(2) In addition to the five hours of instruction required by (1), a licensee shall, pursuant to 37-24-107, MCA, prior to administering topical medication, perform one proctored treatment in direct application of topical medications under the

direct supervision of a licensed medical practitioner, as described in ARM 24.156.510(2), and either:

(a) two proctored treatments in phonophoresis under the direct supervision of a licensed medical practitioner; or

(b) three proctored treatments of iontophoresis under the direct supervision of a licensed medical practitioner.

(3) For the purposes of the rules related to application of topical medications by occupational therapists, the term "clinician" means an occupational therapy licensee who has been approved by the board to administer topical medications. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-106, 37-24-107, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

Rule 24.165.515 reserved

24.165.516 USE OF TOPICAL MEDICATIONS (1) Topical medication prescribed for a patient on a specific or standing basis by a licensed medical practitioner with prescriptive authority must be obtained from a licensed Montana pharmacy. The topical medication may be obtained by either:

(a) the clinician who will be administering the topical medication; or

(b) the patient.

(2) All prescribed topical medications, whether obtained by the clinician or directly by the patient, must be stored at the clinician's place of business in compliance with proper storage guidelines under Title 37, chapter 7, MCA, or as otherwise developed by the board of pharmacy.

(a) Any particular requirements for storage as noted by the pharmacist must be followed by the clinician.

(b) Topical medications must be stored in the environmental conditions as prescribed by the labeled drug directions.

(c) All topical medications obtained by the patient directly and brought to the clinician's place of business must be returned to the patient's possession at the termination of the course of treatment with the patient.

(d) No topical medications obtained by the patient directly may be transferred to or used in treatment of any other occupational therapy patient.

(3) All topical medications must be administered by the clinician as prescribed and in accordance with any pharmacy guidelines given with the topical medication.

(4) A copy of the written prescription specifying the topical medication to be applied and the method of application (direct application, phonophoresis or iontophoresis) must be retained in the patient's occupational therapy medical records. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-107, 37-24-108, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.517 PROTOCOLS FOR USE OF TOPICAL MEDICATIONS

(1) Only those classes of topical medications approved for use by 37-24-108, MCA, may be applied by the clinician to a patient.

(2) Each clinician is responsible for understanding the use of approved topical medications. The medications must be prescribed for the patient by a licensed medical practitioner with prescriptive authority.

(a) The clinician is responsible for reading and understanding the medication's package inserts for indications and contraindications, as well as actions.

(b) The clinician is responsible for consulting the Physician's Desk Reference ("PDR") whenever the clinician needs to supplement the information contained in the package insert in order to appropriately understand the use of the medication.

(c) The clinician is responsible for keeping appropriate records with respect to the topical medication applied or administered in the course of the clinician's practice. Such record keeping must be part of the patient's chart and must verify that the topical medication is properly labeled and packaged as required. Moreover, the record must include a verification that the topical medication was purchased from a licensed Montana pharmacy.

(3) The following list identifies the classes of topical medications which are approved for use by the clinician. The list also cross-references the rule that provides more detailed information concerning each class of approved topical medications:

(a) debriding agents, including bactericidal agents (see ARM 24.165.518);

(b) anesthetic agents (see ARM 24.165.519);

(c) anti-inflammatory agents (see ARM 24.165.520);

(d) antispasmodic agents (see ARM 24.165.521); and

(e) adrenocortico-steroids (see ARM 24.165.522).

(4) The use of an approved class of topical medications is subject to the conditions and requirements established by the administrative rule applicable to that class.

(5) In the event a licensee works at a facility that has different protocols for the use of topical medications by occupational therapy practitioners, the licensee may apply to the board for authorization to use topical medications pursuant to the protocols adopted by the facility. The board, in the exercise of its sound judgment and discretion, and in consultation with such health care providers as it deems appropriate, may grant a licensee such authorization on a case-by-case basis. In no instance will the board authorize the use of topical medications that are not within the classes of topical medications authorized by statute for use by occupational therapy practitioners. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-108, 37-24-109, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.518 DEBRIDING AGENTS PROTOCOLS (1) Within the class of debriding agents, only the following subclasses are approved for use by the clinician on a patient:

(a) papain-based ointments;

(b) papain with urea additives;

(c) anti-inflammatories;

(d) collangenases;
(e) endogenous platelet-derived growth factors;
(f) antibiotic ointments;
(g) fibrinolytics;
(h) antimicrobial agents; and
(i) bactericidal agents.

(2) Clinicians may use papain-based ointments as directed by a licensed medical practitioner with prescriptive authority.

(a) Papain-based ointments act via a proteolytic enzyme that digests nonviable proteins, but which is harmless to viable tissues.

(b) Papain-based ointments are indicated when there is a need to debride necrotic tissue and liquefy slough in acute and chronic lesions, trauma wounds or infected lesions.

(c) Papain-based ointments are contraindicated for patients with known sensitivities to papain or any other ingredient of the medication.

(3) Clinicians may use papain with urea additive agents as directed by a licensed medical practitioner with prescriptive authority.

(a) Papain with urea additive acts as a denaturant to proteins, helps expose papain's activators by a solvent action, rendering them more susceptible to enzymatic digestion.

(b) Papain with urea additive indications are to treat acute and chronic lesions such as:
(i) venous ulcers;
(ii) diabetic and decubitus ulcers;
(iii) burns;
(iv) postoperative wounds;
(v) pilonidal cyst wounds;
(vi) carbuncles; and
(vii) traumatic or infected wounds.

(c) Papain with urea additive has no known contraindications.

(4) Clinicians may use anti-inflammatory agents as directed by a licensed medical practitioner with prescriptive authority.

(a) Anti-inflammatory agents act to decrease histamine reactions to peri-wound areas, decreasing inflammation, and encouraging remodeling.

(b) Anti-inflammatory agents are indicated to relieve inflammation and pruritis caused by dermatosis.

(c) Anti-inflammatory agents are contraindicated for patients with known sensitivity to any components of the preparation.

(5) Clinicians may use collagenase agents as directed by a licensed medical practitioner with prescriptive authority.

(a) Collagenase agents act by digesting collagens in necrotic tissues, without destroying healthy granulation, and by encouraging epithelialization.

(b) Collagenase agents are indicated for the debridement of chronic dermal ulcers and severely burned areas.

(c) Collagenase agents are contraindicated for patients with local or systemic hypersensitivity to collangenases.

(6) Clinicians may use endogenous platelet derived growth factor agents as directed by a licensed medical practitioner with prescriptive authority.

(a) Endogenous platelet derived growth factor agents act by promoting chemotactic recruitment and the proliferative stage of healing. They enhance formation of granulation tissue.

(b) Endogenous platelet derived growth factors are indicated for diabetic neuropathic ulcers that extend into subcutaneous tissue with an adequate blood supply.

(c) Endogenous platelet derived growth factor agents are contraindicated for patients with known hypersensitivity, such as parabens. Endogenous platelet derived growth factor agents are not for use with wounds that close by primary intention because they are a nonsterile, low bioburden, preserved product.

(7) Clinicians may use antibiotic ointments as directed by a licensed medical practitioner with prescriptive authority.

(a) Antibiotic ointments act to kill bacteria and microbes.

(b) Antibiotic ointments are indicated on culture-proven infected wounds.

(c) Antibiotic ointments are contraindicated in patients with proven sensitivities or allergic reactions to the antibiotic prescribed.

(8) Clinicians may use fibrinolytics as directed by a licensed medical practitioner with prescriptive authority.

(a) Fibrinolytics act by contributing to collagen synthesis, where over-production of collagen can cause poor remodeling of the wound.

(b) Fibrinolytics are indicated in patients who exhibit painful, indurated wounds. Fibrinolytics are also indicated in slow healing venous wounds. Fibrinolytics are only used adjunctively in therapy.

(c) Fibrinolytics are contraindicated in patients who are allergic or exhibit a sensitivity to steroids. Fibrinolytics are contraindicated when used alone in the treatment of wounds.

(9) Clinicians may use antimicrobial agents as directed by a licensed medical practitioner with prescriptive authority.

(a) Antimicrobial agents contain a broad spectrum-silver cascade that acts to reduce the bioburden in wounds for up to seven days.

(b) Antimicrobial agents are indicated for managing full and partial thickness wounds and may be used over debrided or grafted partial thickness wounds.

(c) Antimicrobial agents have no known contraindications.

(10) Clinicians may use bacterial agents only for debridement as directed by a licensed medical practitioner with prescriptive authority.

(a) Bactericidal agents act by killing bacteria.

(b) Bactericidal agents are indicated for the presence of bacteria.

(c) Bactericidal agents are contraindicated in patients with allergic or sensitive response to the agent. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-108, 37-24-109, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.519 ANESTHETIC AGENTS PROTOCOLS (1) Clinicians may use anesthetic agents as directed by a licensed medical practitioner with prescriptive authority.

(2) Anesthetic agents act by blocking both the initiation and conduction of nerve impulses by decreasing the neuron membrane's permeability to sodium ions.

(3) Anesthetic agents are indicated to relieve pain and inflammation associated with minor skin disorders and for acute inflammatory conditions.

(4) Anesthetic agents are contraindicated if there is sensitivity to the topical anesthetic. They are contraindicated if there are abrasions, openings or a local infection at the site of application.

(5) The specific anesthetic agents permitted by this rule are:

(a) fluoromethane compounds:

(i) dichlorofluoromethane 15%;

(ii) trichloromonofluoromethane 85%;

(iii) lidocaine hydrochloride;

(iv) lidocaine;

(v) ethyl chloride;

(vi) hydrocortisone menthol; and

(vii) lidocaine hydrocortisone. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-108, 37-24-109, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.520 NONSTEROIDAL ANTI-INFLAMMATORY AGENTS PROTOCOLS (1) Clinicians may use nonsteroidal anti-inflammatory agents directed by a licensed medical practitioner with prescriptive authority.

(2) Nonsteroidal anti-inflammatory agents act by blocking the formation of prostaglandins.

(3) Nonsteroidal anti-inflammatory agents are indicated for acute inflammation such as tendonitis, arthritis and bursitis.

(4) Nonsteroidal anti-inflammatory agents are contraindicated when there is sensitivity to topical anti-inflammatory agents, especially when there is a local infection or abrasion at the site of application.

(5) The specific nonsteroidal anti-inflammatory agents permitted by this rule are:

(a) ketaprofen 20% (10% is available without prescription);

(b) piroxicam 1% or 2%;

(c) ibuprofen, up to 20%; and

(d) diclofenac 2.5%. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-108, 37-24-109, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.521 ANTISPASMODIC AGENTS PROTOCOLS (1) Clinicians may use antispasmodic agents directed by a licensed medical practitioner with prescriptive authority.

(2) Antispasmodic agents act by forming strong drug-

receptor complex at postganglionic parasympathetic neuroeffector sites in smooth muscle, cardiac muscle and exocrine glands, thereby blocking action of acetycholine.

(3) Antispasmodic agents are indicated to reduce the volume of perspiration by inhibiting sweat gland secretions to reduce muscle spasms and pain.

(4) Antispasmodic agents are contraindicated if the formulation contains sapphire, which can cause allergic reactions in susceptible individuals. Other contraindications may be listed in the current PDR.

(5) The antispasmodic agents permitted by this rule are:

(a) cyclobenzaprine 1% or 2%; and

(b) baclofen 10%. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-108, 37-24-109, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.522 ADRENOCORTICO-STEROID AGENT PROTOCOLS

(1) Clinicians may use adrenocortico-steroid agents as directed by a licensed medical practitioner with prescriptive authority.

(2) Adrenocortico-steroid agents act by diffusing across cell membranes to combine with specific cytoplasmic receptors. The resulting complexes enter the nucleus and bind to DNA, thereby irritating cytoplasmic synthesis of the enzymes responsible for systemic effects of adrenocortico-steroids.

(3) Adrenocortico-steroid agents are indicated for inflammation (such as tendonitis, bursitis, arthritis, or myositis), and for antipruritic and vasoconstrictor actions.

(4) Adrenocortico-steroid agents are contraindicated or require special care when used with children, growing adolescents and pregnant women. The use of adrenocortico-steroids is also contraindicated:

(a) by intolerance to adrenocortico-steroids;

(b) if an infection which is not controlled by antibiotics is present at the treatment site;

(c) for prolonged periods of time;

(d) for large areas; and

(e) with occlusive dressings.

(5) The adrenocortico-steroid agents permitted by this rule are:

(a) hydrocortizone cream 10%;

(b) dexamethasone sodium phosphate;

(c) triamcinolone acetonide; and

(d) dexamethasone cream. (History: 37-24-201, 37-24-202, MCA; IMP, 37-24-108, 37-24-109, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

Rule 24.165.523 reserved

24.165.524 PROTOCOL FOR USE OF AN APPROVED MEDICATION AS A NEUROPATHIC PAIN AGENT (1) Clinicians may use approved topical medications as neuropathic pain agents, when and as directed by a licensed medical practitioner with prescriptive authority.

(2) Neuropathic pain agent actions depend upon the type of

agent.

(3) Neuropathic pain agents are indicated for injuries to central or peripheral nervous system, including fibromyalgias, diabetic neuropathy, and regional pain syndrome.

(4) Neuropathic pain agents are contraindicated if an infection or rash is present at the site of application or there is a sensitivity to the topical agent. (History: This rule is advisory only, but may be a correct interpretation of the law, 37-24-201, 37-24-202, MCA; IMP, 37-24-108, 37-24-109, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

24.165.525 DOCUMENTING EDUCATION AND COMPETENCE TO PERFORM SOUND AND ELECTRICAL PHYSICAL AGENT MODALITIES -- OUT-OF-STATE PRACTITIONERS (1) A person who has a license or endorsement from another state which allows that person to use sound and electrical physical agent modalities in the person's practice of occupational therapy may apply to the board for authority to use sound and electrical physical agent modalities in Montana.

(2) The person with the out-of-state license or endorsement shall provide the board with a signed and notarized certificate of verification from that out-of-state licensing authority that verifies the person is authorized by that other state to use sound and electrical physical agent modalities in that person's practice as an occupational therapist. In addition, the person must demonstrate:

(a) that with respect to performing sound and electrical physical agent modalities, the education and training requirements of the other state are substantially similar to or exceed Montana's requirements for authority to use those modalities;

(b) that the person is not under investigation or subject to pending charges or final disciplinary action for unprofessional conduct or impairment in any state where the person is authorized to practice occupational therapy; and

(c) that there are no reasons why the person should not be allowed to perform sound and electrical physical agent modalities, if the person is licensed in Montana as an occupational therapy practitioner.

(3) The determination as to whether the standards of the other state are substantially similar to or greater than those of this state rests in the sole discretion of the board. The board shall make such decisions on a case-by-case basis. (History: 37-24-201, 37-24-202, MCA; IMP, 37-1-304, 37-24-302, 37-24-303, MCA; NEW, 2005 MAR p. 447, Eff. 4/1/05.)

Sub-Chapter 6

Licensing And Board Specific Rules

24.165.601 TEMPORARY PRACTICE PERMIT (1) All temporary permit holders shall work under the supervision of a licensed occupational therapy practitioner in accordance with ARM 24.165.501 and 24.165.502.

(2) Applicants under 37-1-305(2), MCA, who have previously

taken the national examination and failed, are not eligible for a temporary practice permit. (History: 37-1-305, 37-24-201, 37-24-202, MCA; IMP, 37-1-319, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; AMD, 1996 MAR p. 2379, Eff. 9/6/96; TRANS, from Commerce, 2004 MAR p. 2280.)

Rules 24.165.602 and 24.165.603 reserved

24.165.604 INACTIVE STATUS (1) A licensee who wishes to retain a license, but who will not be practicing occupational therapy, may obtain an inactive status by indicating this intention on the annual renewal form or by submission of an application and payment of the appropriate fee. An individual licensed on inactive status may not practice occupational therapy during the period in which he or she remains on inactive status.

(2) An individual licensed on inactive status may convert his or her license to active status by submission of an appropriate application and payment of the renewal fee for the year in question. The application must contain evidence of one or more of the following, in the board's discretion:

(a) full-time practice of occupational therapy in another state and completion of continuing education for each year of inactive status, substantially equivalent, in the opinion of the board, to that required under these rules, or

(b) completion of a minimum of six contact hours of continuing education within the six months prior to application for reinstatement, or

(c) repassage of the national board of certification in occupational therapy examination. (History: 37-1-131, 37-1-319, 37-24-201, 37-24-202, MCA; IMP, 37-1-319, 37-24-308, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; AMD, 1996 MAR p. 2379, Eff. 9/6/96; TRANS, from Commerce, 2004 MAR p. 2280.)

Sub-Chapters 7 through 20 reserved

Sub-Chapter 21

Continuing Education

24.165.2101 CONTINUING EDUCATION (1) On a form provided by the board, all applicants for renewal of licenses shall affirm on the renewal form that they have completed 10 contact hours of continuing education as provided in this rule as a condition to establish eligibility for renewal. The continuing education requirement will not apply until the licensee's first full year of licensure.

(2) The licensee shall maintain records and documentation of completion of continuing education activities such as verification of participation forms, conference brochures, certificates, college or university transcripts or grade reports, articles, book reviews and apprenticeship evaluations.

(3) It is the sole responsibility of each licensee to meet the continuing education requirement, and to provide

documentation of compliance if so requested during a random audit. A random audit will be conducted on an annual basis.

(4) Up to 10 contact hours earned in excess of the 10 contact hours required in a licensing year may be carried over into the following year. Credit may be received for a course previously submitted on a biannual basis only.

(5) All continuing education must be germane to the profession and must contribute to the professional competence of an occupational therapist as determined by the board in its sole discretion.

(6) The board shall accept any continuing education offered or approved by the Montana occupational therapy association, the American occupational therapy association, the American society of hand therapists, or the American journal of occupational therapy.

(7) Subject to approval by the board, continuing education may be earned through college course work, according to the following limitations:

(a) the licensee must pass the course,

(b) one semester credit shall equal 15 contact hours of continuing education, and

(c) one quarter credit shall equal 10 contact hours of continuing education.

(8) Subject to approval by the board, continuing education may be earned by teaching courses or making professional presentations, according to the following limitations:

(a) two contact hours shall be awarded for every hour of presentation,

(b) documentation must be submitted in the form of an agenda or outline listing the licensee as the instructor or presenter of the course,

(c) the course must be addressed to health professionals or a community service organization,

(d) credit for instruction of any course or topic of presentation may be submitted for continuing education only once, and

(e) individuals employed by universities and colleges may not claim credit units in this category for conducting courses that are a part of the regular course offering of those institutions, even if those courses are offered in the evening or summer.

(9) Subject to approval by the board, continuing education may be earned for apprenticeships involving supervised clinical experience aimed at return to practice or developing specialized skills in occupational therapy, according to the following limitations:

(a) 10 contact hours shall be credited for each 40 hour week,

(b) there is no limit to the amount of contact hours that can be earned under this category,

(c) documentation must be submitted in the form of a signed letter from the clinical supervisor describing the length

and type of educational experiences, and an evaluation of the practitioner's performance, and

(d) apprenticeships must be served under the supervision of a licensed occupational therapist whose license is in good standing.

(10) Subject to approval by the board, continuing education may be earned for reading books germane to the profession, according to the following limitations:

(a) one contact hour shall be credited for each book or article up to a maximum of four contact hours per year; and

(b) documentation must be maintained in the form of a book review written by the licensee noting the author, title, publisher and publishing date of the book or article. (History: 37-1-319, 37-24-202, MCA; IMP, 37-1-319, 37-1-306, MCA; NEW, 1996 MAR p. 2379, Eff. 9/6/96; AMD, 1998 MAR p. 2266, Eff. 8/28/98; TRANS, from Commerce, 2004 MAR p. 2280.)

24.165.2102 CONTINUING EDUCATION - WAIVER (1) The board may grant waivers or extensions of time within which to fulfill continuing education requirements in cases involving physical disability or undue hardship. To be considered for a waiver, an applicant shall submit a written application on forms provided by the board. Waivers may be granted for a period not to exceed two calendar years. In the event the physical disability or undue hardship for which the waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. (History: 37-1-319, 37-24-202, MCA; IMP, 37-1-319, 37-24-105, 37-24-106, MCA; NEW, 1996 MAR p. 2379, Eff. 9/6/96; TRANS, from Commerce, 2004 MAR p. 2280.)

Sub-Chapter 22 reserved

Sub-Chapter 23

Unprofessional Conduct

24.165.2301 UNPROFESSIONAL CONDUCT For the purpose of implementing Title 37, chapter 1, MCA, and in addition to the provisions at 37-1-316, MCA, the board defines "unprofessional conduct" as follows:

(1) Diagnosing or treating individual disorders by correspondence;

(2) Discriminating against a client on the basis of race, religion, sex, or age;

(3) Inaccurately recording, falsifying, altering, or failing to make essential entries of any record of a client or health care provider;

(4) Intentionally making or filing a false or misleading report or failing to file a report when it is required by law or third person, or intentionally obstructing or attempting to obstruct another person from filing such report;

(5) Improper use of evaluation or treatment modalities resulting in physical injury to the client;

(6) Using a firm name, letterhead, publication, term,

title, designation, or document which states or implies an ability, relationship, or qualification that does not exist;

(7) Practicing the profession under a false name or name other than the name under which the license is held;

(8) Impersonating any licensee or representing oneself as a licensee for which one has no current license;

(9) Charging a client or a third-party payor for a service not performed;

(10) Submitting an account or charge for services that are false or misleading. This does not apply to charging for an unkept appointment;

(11) Filing a complaint with, or providing information to the board which the licensee knows, or ought to know, is false or misleading. This provision does not apply to any filing of complaint or providing information to the board when done in good faith;

(12) Violating, or attempting to violate, directly or indirectly, or assisting or abetting the violation of, or conspiring to violate any provision of Title 37, chapter 24, MCA, or rule promulgated thereunder, or any order of the board;

(13) Violating any state, federal, provincial, or tribal statute or administrative rule governing or affecting the professional conduct of any licensee;

(14) Being convicted of a misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug, controlled substance, or alcoholic beverage, or any combination of such substances;

(15) Using any dangerous drug or controlled substance illegally while providing professional services;

(16) Acting in such a manner as to present a danger to public health or safety, or to any client including, but not limited to, incompetence, negligence, or malpractice;

(17) Performing services outside of the licensee's area of training, expertise, competence, or scope of practice or licensure;

(18) Failing to obtain an appropriate consultation or make an appropriate referral when the problem of the client is beyond the licensee's training, experience, or competence;

(19) Maintaining a relationship with a client that is likely to impair the licensee's professional judgment or increase the risk of client exploitation;

(20) Exercising influence on or control over a client, including the promotion or the sale of services, goods, property, or drugs for the financial gain of the licensee or a third party;

(21) Promoting for personal gain any drug, device, treatment, procedure, product, or service which is unnecessary, ineffective, or unsafe;

(22) Charging a fee that is clearly excessive in relation to the service or product for which it is charged;

(23) Failing to render adequate supervision, management, training or control of auxiliary staff or other persons, including licensees practicing under the licensee's supervision or control according to generally accepted standards of

practice;

(24) Discontinuing professional services unless services have been completed, the client requests the discontinuation, alternative or replacement services are arranged, or the client is given reasonable opportunity to arrange alternative or replacement services;

(25) Delegating a professional responsibility to a person when the licensee knows, or has reason to know, that the person is not qualified by training, experience, license, or certification to perform the delegated task;

(26) Accepting, directly or indirectly, employment from any person who is not licensed to practice the profession or occupation, or who is not licensed or authorized to operate a professional practice or business;

(27) Failing to cooperate with a board inspection or investigation in any material respect;

(28) Failing to report an incident of unsafe practice or unethical conduct of another licensee to the licensing authority;

(29) Failing to obtain informed consent from client or client's representative prior to providing any therapeutic intervention; or American society of hand therapists and 100 treatments under instructor proctoring of sound and electrical physical agent modalities done on patients directly supervised by the instructor/proctor. The instructor must be pre-approved by the board and show certificate of proof of being a licensed professional allowed to use deep modalities who has more than one year clinical experience in the use of deep modalities, an occupational therapist, registered and certified in providing sound and electrical modalities.

(30) Employing a nontraditional or experimental treatment or diagnostic process without informed consent from client or client's representative prior to such diagnostic procedure or treatment, or research, or which is inconsistent with the health or safety of the client or public;

(31) Guaranteeing that a cure will result from the performance of medical services;

(32) Ordering, performing or administering, without clinical justification, tests, studies, x-rays, treatments or services;

(33) Failing to provide to a client, client's representative or an authorized health care practitioner, upon a written request, the medical record or a copy of the medical record relating to the client which is in the possession or under the control of the professional. Prior payment for professional services to which the records relate, other than photocopy charges, may not be required as a condition of making the records available;

(34) Sexual, verbal or mental abuse of a client;

(35) Failing to safeguard the client's dignity or right to privacy;

(36) Engaging in sexual contact, sexual intrusion or sexual penetration, as defined in Title 45, chapter 2, MCA, with a client during a period of time in which a professional

relationship exists, or for up to six months after the relationship has terminated;

(37) Failing to account for funds received in connection with any services rendered or to be rendered.

(38) Failure to supply continuing education documentation as requested by the audit procedure set forth in ARM 24.165.2101 or supplying misleading, incomplete or false information relative to continuing education taken by the licensee. (History: 37-1-131, 37-1-307, 37-1-316, 37-1-319, 37-24-201, 37-24-202, MCA; IMP, 37-1-307, 37-1-308, 37-1-309, 37-1-311, 37-1-312, 37-24-202, MCA; NEW, 1986 MAR p. 943, Eff. 5/30/86; AMD, 1989 MAR p. 1191, Eff. 8/18/89; AMD, 1994 MAR p. 25, Eff. 1/14/94; AMD, 1996 MAR p. 2379, Eff. 9/6/96; AMD, 1998 MAR p. 2266, Eff. 8/28/98; TRANS, from Commerce, 2004 MAR p. 2280.)